

**DECISION**

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**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:**

B-213995

**DATE:** April 19, 1984**MATTER OF:**

RCA American Communications, Inc.

**DIGEST:**

Protest of contracting agency decision to exclude satellite telecommunications common carriers from procurement of telecommunications services, thereby limiting competition to terrestrial carriers, is denied where contracting agency establishes prima facie case that the exclusion is legitimately related to its minimum needs and protester, although questioning agency's technical judgment, fails to clearly show that agency decision to restrict competition is unreasonable.

RCA American Communications, Inc. (RCA), a domestic satellite telecommunications common carrier, protests the General Services Administration (GSA) decision to exclude satellite transmission carriers from Federal Telecommunications System (FTS) procurements of private line intercity switched telecommunications for a period of at least 1 year or until the technical difficulties associated with satellite transmission can be cured. Specifically, RCA protests its exclusion from the competitive procurement of end-to-end service for approximately 13,800 FTS voice grade private line circuits within the contiguous United States under request for proposals (RFP) KETN-VC-84-07.

The gist of RCA's protest is that the RFP is unduly restrictive of competition. RCA argues that GSA can achieve cost savings of 40 to 54 percent by allowing satellite carriers to participate in these procurements and that the exclusion of satellite carriers constitutes an unwarranted discrimination in favor of terrestrial carriers.

We have long recognized that contracting agencies are primarily responsible for ascertaining their minimum needs and preparing specifications reflecting those needs. Moreover, so long as the specifications reflect legitimate minimum needs, the contracting agency is not required to compromise its needs in order to obtain competition. However, in the face of a challenge alleging that agency

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specifications are unduly restrictive of competition, it is up to the contracting agency to establish a prima facie case in support of the necessity of the complained-of restriction. But, once the agency makes its case, the burden then shifts to the protester to show that the restriction is clearly unreasonable. Philadelphia Biologics Center, B-209660, June 1, 1983, 83-1 CPD 589. In our view, GSA has established a prima facie case in support of the exclusion of satellite carriers and RCA has failed to establish that the exclusion is clearly unreasonable as it applies to this particular procurement.

GSA reports that FTS, with approximately 60,000 circuits in use, is the largest private line telecommunications network in the world. Prior to 1980, AT&T and its associated Bell Operating Companies assured the end-to-end quality of FTS calls. This is no longer the case. Currently, multiple vendors, including AT&T and RCA as well as others, provide portions of the circuits in use. Because there is no longer a single vendor responsible for the overall end-to-end quality of FTS service, GSA has assumed responsibility for maintaining network integrity and quality of service.

RCA was awarded the first satellite transmission route in 1980. It has since been awarded three other GSA telecommunication contracts. However, GSA reports that it was not until October 1982 that large numbers of FTS users utilized satellite transmission and GSA encountered the technical difficulties leading to the determination to temporarily exclude satellite carriers from FTS procurements.

GSA admits that some satellite transmission services have proved acceptable. However, where there have been problems either with the satellite service or with integrating the satellite service into the existing FTS network, the results have been high costs, extensive disruptions and a need to reallocate significant resources to cure the problems. Moreover, GSA reports that, generally, the satellite transmission services are much more sensitive to disruptions (from problems anywhere in the FTS network) than are terrestrial services. GSA has advanced three reasons for excluding satellite transmission services temporarily from the FTS network. First, FTS satellite transmissions have

experienced high initial failure rates of devices known as echo cancellers. Echo cancellers stop returning echos emanating from the satellite from entering into the telephone call. Failure of the echo canceller forces the caller to listen to his/her own voice delayed by one-half second. In the event of such failure, callers usually hang up immediately, which results in a multiplier effect, as subsequent callers are automatically routed to the now free circuit. GSA admits that terrestrial circuits fail at a similar rate, but notes that, unlike satellite circuits, their failures are less likely to be catastrophic because terrestrial failures tend to occur over a period of time and the service remains usable (the callers do not hang up) for some time as the circuit quality slowly degrades. GSA admits that RCA has been a leader in echo canceller technology, having recently introduced a fourth generation echo canceller and automated testing, but GSA believes that further improvements in failure rate and failure detection time are required.

GSA's second reason stems from the problem of integrating satellite circuits into local switches and access lines at either end of the FTS call. The quality of the local switches and access lines varies. These local facilities, at either end of the private line circuits, were designed by local operating company personnel with the result that some are acceptable for terrestrial circuits, but not for satellite circuits. The situation is further complicated by the fact that the local switches and access lines are maintained by vendors other than the awardee.

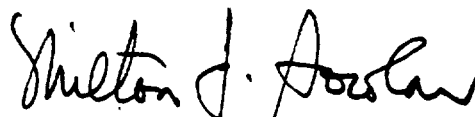
Finally, GSA reports that the five largest commercial users of private line services (members of a GSA industry advisory panel) have also decided, like GSA, to stop adding satellite circuits due to high user dissatisfaction with satellite service, principally: (1) the time delay in voice transmission, and (2) the inability of both parties to speak at the same time.

RCA responds that based on its experience: (1) the problem with the echo cancellers has been resolved so that now, even when there is a failure, two-thirds of the calls are still completed; (2) GSA has overestimated the adverse effect of integrating satellite service into FTS because the integration allows GSA to identify and resolve defects in the original all-terrestrial system, and (3) there is no

lack of user acceptance because RCA's satellite voice transmission services have experienced an annual growth rate of 48 percent. Moreover, RCA contends that GSA should not ignore the 40- to 54-percent cost savings that accrue from the use of satellite transmission. RCA also expresses the fear that if at a later date GSA admits satellite carriers into the competition, it will be unable to compete since the current solicitation requires 15- to 25-percent cost reductions from current costs in order to be eligible for award. After the terrestrial carriers have lowered costs 15 to 20 percent under the instant procurement, RCA argues that it will not be able to offer a further 15- to 25-percent cost reduction and still obtain a return on its investment.

In our view, RCA has not shown that GSA's exclusion of satellite carriers is clearly unreasonable. GSA and RCA obviously disagree over the technical merits of satellite transmission services; however, a mere difference of opinion between the protester and the agency over the agency's technical conclusions does not invalidate the agency's conclusions. Stacor Corporation, B-204364.2, January 8, 1982, 82-1 CPD 24. Since we conclude that GSA reasonably determined that satellite transmission services cannot currently meet GSA's legitimate needs, the question of cost savings which might be accrued from the use of satellite transmission is irrelevant. Finally, we note that GSA has reported that it decides the amount of cost reduction it will seek in each procurement on a case-by-case basis so as to maximize competition. Therefore, RCA's fear that GSA will demand unreasonable cost reductions in some future procurement is premature at this time.

Accordingly, the protest is denied.

*for*   
Comptroller General  
of the United States